

JS 44C/SDNY  
 REV. 1/2014

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

**PLAINTIFFS**

BOKF, NA, as Trustee, and WILMINGTON TRUST, N.A., as Trustee, Appellants

**DEFENDANTS**

Momentive Performance Materials Inc., Apollo Global Management, LLC, Ad Hoc Committee of Second Lien Noteholders, et al., Debtors/Appelles

**ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)**

WillmerHale LLP, 7 World Trade Center, 250 Greenwich St., New York, NY 10007, (212) 230-8800; Dechert LLP (212) 698-3500; Ropes & Gray LLP, (212) 596-9000

**ATTORNEYS (IF KNOWN)**

Willkie Farr & Gallagher LLP, 787 Seventh Ave., New York, NY 10019; Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, NY 10005

**CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)**

(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Appeal under 28 U.S.C. 158(a) from bankruptcy court's plan confirmation order in In re Momentive Performance Materials, No. 14-22503

Has this or a similar case been previously filed in SDNY at any time? No ☒ Yes ☐ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date \_\_\_\_\_ & Case No. \_\_\_\_\_

IS THIS AN INTERNATIONAL ARBITRATION CASE? No ☒ Yes ☐

(PLACE AN [x] IN ONE BOX ONLY)

**NATURE OF SUIT**

**ACV7492 VLB**

**TORTS**

**ACTIONS UNDER STATUTES**

**CONTRACT**

- ☐ 110 INSURANCE
- ☐ 120 MARINE
- ☐ 130 MILLER ACT
- ☐ 140 NEGOTIABLE INSTRUMENT
- ☐ 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- ☐ 151 MEDICARE ACT
- ☐ 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)
- ☐ 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS
- ☐ 160 STOCKHOLDERS SUITS
- ☐ 190 OTHER CONTRACT
- ☐ 195 CONTRACT PRODUCT LIABILITY
- ☐ 196 FRANCHISE

**PERSONAL INJURY**

- ☐ 310 AIRPLANE
- ☐ 315 AIRPLANE PRODUCT LIABILITY
- ☐ 320 ASSAULT, LIBEL & SLANDER
- ☐ 330 FEDERAL EMPLOYERS' LIABILITY
- ☐ 340 MARINE
- ☐ 345 MARINE PRODUCT LIABILITY
- ☐ 350 MOTOR VEHICLE
- ☐ 355 MOTOR VEHICLE PRODUCT LIABILITY
- ☐ 360 OTHER PERSONAL INJURY

**PERSONAL INJURY**

- ☐ 362 PERSONAL INJURY - MED MALPRACTICE
- ☐ 365 PERSONAL INJURY PRODUCT LIABILITY
- ☐ 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

**PERSONAL PROPERTY**

- ☐ 370 OTHER FRAUD
- ☐ 371 TRUTH IN LENDING
- ☐ 380 OTHER PERSONAL PROPERTY DAMAGE
- ☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY

**FORFEITURE/PENALTY**

- ☐ 810 AGRICULTURE
- ☐ 820 OTHER FOOD & DRUG
- ☐ 825 DRUG RELATED SEIZURE OF PROPERTY
- ☐ 830 LIQUOR LAWS
- ☐ 840 RR & TRUCK
- ☐ 850 AIRLINE REGS
- ☐ 860 OCCUPATIONAL SAFETY/HEALTH
- ☐ 890 OTHER

**LABOR**

- ☐ 710 FAIR LABOR STANDARDS ACT
- ☐ 720 LABOR/MGMT RELATIONS
- ☐ 730 LABOR/MGMT REPORTING & DISCLOSURE ACT
- ☐ 740 RAILWAY LABOR ACT
- ☐ 790 OTHER LABOR LITIGATION
- ☐ 791 EMPL RET INC SECURITY ACT

**BANKRUPTCY**

- ☒ 422 APPEAL
- ☐ 423 WITHDRAWAL

**PROPERTY RIGHTS**

- ☐ 820 COPYRIGHTS
- ☐ 830 PATENT
- ☐ 840 TRADEMARK

**SOCIAL SECURITY**

- ☐ 881 HIA (1395ff)
- ☐ 882 BLACK LUNG (923)
- ☐ 883 DMC/DIWW (405(g))
- ☐ 884 SSID TITLE XVI
- ☐ 885 RSI (405(g))

**FEDERAL TAX SUITS**

- ☐ 870 TAXES (U.S. Plaintiff or Defendant)
- ☐ 871 IRS-THIRD PARTY

**OTHER STATUTES**

- ☐ 400 STATE REAPPORTIONMENT
- ☐ 410 ANTITRUST
- ☐ 430 BANKS & BANKING
- ☐ 450 COMMERCE
- ☐ 460 DEPORTATION
- ☐ 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)
- ☐ 480 CONSUMER CREDIT
- ☐ 490 CABLE/SATELLITE TV
- ☐ 810 SELECTIVE SERVICE
- ☐ 850 SECURITIES/COMMODITIES/EXCHANGE
- ☐ 875 CUSTOMER CHALLENGE 12 USC 3410
- ☐ 890 OTHER STATUTORY ACTIONS
- ☐ 891 AGRICULTURAL ACTS
- ☐ 892 ECONOMIC STABILIZATION ACT
- ☐ 893 ENVIRONMENTAL MATTERS
- ☐ 894 ENERGY ALLOCATION ACT
- ☐ 895 FREEDOM OF INFORMATION ACT
- ☐ 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE
- ☐ 950 CONSTITUTIONALITY OF STATE STATUTES

**REAL PROPERTY**

- ☐ 210 LAND CONDEMNATION
- ☐ 220 FORECLOSURE
- ☐ 230 RENT LEASE & EJECTMENT
- ☐ 240 TORTS TO LAND
- ☐ 245 TORT PRODUCT LIABILITY
- ☐ 290 ALL OTHER REAL PROPERTY

**ACTIONS UNDER STATUTES**

**CIVIL RIGHTS**

- ☐ 441 VOTING
- ☐ 442 EMPLOYMENT
- ☐ 443 HOUSING/ACCOMMODATIONS
- ☐ 444 WELFARE
- ☐ 445 AMERICANS WITH DISABILITIES - EMPLOYMENT
- ☐ 446 AMERICANS WITH DISABILITIES - OTHER
- ☐ 440 OTHER CIVIL RIGHTS (Non-Prisoner)

**PRISONER PETITIONS**

- ☐ 510 MOTIONS TO VACATE SENTENCE 28 USC 2255
- ☐ 530 HABEAS CORPUS
- ☐ 535 DEATH PENALTY
- ☐ 540 MANDAMUS & OTHER

**PRISONER CIVIL RIGHTS**

- ☐ 550 CIVIL RIGHTS
- ☐ 555 PRISON CONDITION

**IMMIGRATION**

- ☐ 462 NATURALIZATION APPLICATION
- ☐ 463 HABEAS CORPUS-ALIEN DETAINEE
- ☐ 465 OTHER IMMIGRATION ACTIONS

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND \$ \_\_\_\_\_ OTHER \_\_\_\_\_

JUDGE Briccetti

DOCKET NUMBER 14 Misc. 0303

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☒ NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN x IN ONE BOX ONLY)

## ORIGIN

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from (Specify District)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ a. all parties represented
- ☐ b. At least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

## BASIS OF JURISDICTION

- ☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY) ☐ 4 DIVERSITY

IF DIVERSITY, INDICATE  
CITIZENSHIP BELOW.  
(28 USC 1332, 1441)

## CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [ ] 1 [ ] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [ ] 3 [ ] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [ ] 5 [ ] 5
CITIZEN OF ANOTHER STATE	[ ] 2 [ ] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[ ] 4 [ ] 4	FOREIGN NATION	[ ] 6 [ ] 6

## PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

BOKF, NA, P.O. Box 2300, Tulsa, OK, 74192 (Tulsa County)

WILMINGTON TRUST, N.A., Rodney Square North, 1100 North Market St., Wilmington, DE19890 (New Castle County)

## DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

MOMENTIVE PERFORMANCE MATERIALS, INC., 260 Hudson River Road, Waterford, NY12188 (Saratoga County)

Apollo Global Management, LLC, 9 West 57th Street, 43rd Floor, New York, NY 10019 (Manhattan)  
Ad Hoc Committee of Second Lien Noteholders c/o Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, NY 10005 (Manhattan)

## DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☒ WHITE PLAINS ☐ MANHATTAN  
(DO NOT check either box if this a PRISONER PETITION/PRISONER CIVIL RIGHTS COMPLAINT.)

DATE 09/15/2014 SIGNATURE OF ATTORNEY OF RECORD

*Philip Auker*

ADMITTED TO PRACTICE IN THIS DISTRICT

[ ] NO  
[X] YES (DATE ADMITTED Mo. 09 Yr. 2005)  
Attorney Bar Code # PA7833

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge \_\_\_\_\_ is so Designated.

Ruby J. Krajick, Clerk of Court by \_\_\_\_\_ Deputy Clerk, DATED \_\_\_\_\_

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)